

201607599

Anthony Egan

On September 3, 2017, Sgt. Anthony Egan and numerous other officers entered a backyard party by force. Sgt. Egan was accused of placing a person in a chokehold and striking multiple people with his baton, causing damage to one cellphone that was being used to record the interaction. During a forceful arrest of one man, Sgt. Egan was alleged to have punched the man and struck his head with a baton. Civilians filmed the officers and at least five videos were obtained as evidence.

During his first CCRB interview, Sgt. Egan claimed that he did not use his baton to hit anyone's hand or cell phone to prevent them from recording or for any other reason. Video footage contradicted this statement by clearly showing Sgt. Egan swinging his baton downward towards a civilian's phone.

The CCRB substantiated allegations that Sergeant Egan improperly punched individuals, struck them with his baton, interfered with recording, and damaged a cell phone. It also found that he made a false statement when he denied hitting anyone with his baton.

The NYPD did not discipline Sgt. Egan for the incident. Sgt. Egan has since left the NYPD.

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Liliana Manuel	Team: Squad #7	CCRB Case #: 201607599	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 09/03/2016 10:30 PM	Location of Incident: [REDACTED]	Precinct: 67	18 Mo. SOL 3/3/2018	EO SOL 3/3/2018	
Date/Time CV Reported Tue, 09/06/2016 10:54 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 09/06/2016 10:54 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SGT Anthony Egan	3129	§ 87(2)(b)	067 PCT
2. An officer			067 PCT
3. CPT John Doesberg	00000	§ 87(2)(b)	067 PCT
4. INS Joseph Gulotta	00000	§ 87(2)(b)	067 PCT
5. POM Kenneth Triolo	13535	§ 87(2)(b)	067 PCT
6. POM William Pugliese	12760	§ 87(2)(b)	067 PCT
7. SGT Michael Scally	03721	§ 87(2)(b)	067 PCT
8. POM Aurel Hoxha	13176	§ 87(2)(b)	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Caner Sezer	25291	§ 87(2)(b)	067 PCT
2. POM Ugur Bek	06681	§ 87(2)(b)	067 PCT
3. POM Saul Delacruz	14948	§ 87(2)(b)	067 PCT
4. POM Matthew Sabella	3528	§ 87(2)(b)	067 PCT
5. SGT Miguel Abreu	00614	§ 87(2)(b)	067 PCT
6. POF Carolyn Nitowitz	04938	§ 87(2)(b)	067 PCT
7. POF Adela Redzematovic	09493	§ 87(2)(b)	067 PCT
8. POM Christophe Palmer	28220	§ 87(2)(b)	067 PCT

<b>Witness Officer(s)</b>	<b>Shield No</b>	<b>Tax No</b>	<b>Cmd Name</b>
9. POM Gregory Vasquez	21626	§ 87(2)(b)	067 PCT
10. POF Chandanie Arjun	14869	§ 87(2)(b)	067 PCT
11. POF Christine Roman	18956	§ 87(2)(b)	067 PCT
12. POM Adrian Jimenez	13248	§ 87(2)(b)	067 PCT
13. POM Flagumy Valcourt	06178	§ 87(2)(b)	067 PCT
14. POM Garrett Gorham	12001	§ 87(2)(b)	067 PCT
15. SGT Jessenia Tabb	04026	§ 87(2)(b)	067 PCT
16. POF Djenane Pierre	02093	§ 87(2)(b)	067 PCT
17. LSA John Hopkins	00000	§ 87(2)(b)	067 PCT

<b>Officer(s)</b>	<b>Allegation</b>	<b>Investigator Recommendation</b>
A . INS Joseph Gulotta	Abuse of Authority: Inspector Joseph Gulotta authorized the entry into the backyard of § 87(2)(b) in Brooklyn.	A . Exonerated
B . INS Joseph Gulotta	Abuse of Authority: Inspector Joseph Gulotta authorized the seizure of § 87(2)(b)'s property.	B . Exonerated
C . SGT Michael Scally	Force: Sergeant Michael Scally used physical force against § 87(2)(b).	C . Exonerated
D . POM Kenneth Triolo	Abuse of Authority: Police Officer Kenneth Triolo refused to provide his name to § 87(2)(b).	D . Exonerated
E . POM Kenneth Triolo	Abuse of Authority: Police Officer Kenneth Triolo interfered with § 87(2)(b) use of a recording device.	E . Unfounded
F . SGT Anthony Egan	Force: Sergeant Anthony Egan used a chokehold against § 87(2)(b).	F . Unsubstantiated
G . SGT Anthony Egan	Force: Sergeant Anthony Egan restricted § 87(2)(b) breathing.	G . Unsubstantiated
H . SGT Anthony Egan	Force: Sergeant Anthony Egan struck § 87(2)(b) with a baton.	H . Substantiated
I . SGT Anthony Egan	Force: Sergeant Anthony Egan struck § 87(2)(b) with a baton.	I . Substantiated
J . SGT Anthony Egan	Abuse of Authority: Sergeant Anthony Egan interfered with § 87(2)(b) use of a recording device.	J . Substantiated
K . SGT Anthony Egan	Force: Sergeant Anthony Egan struck § 87(2)(b) with a baton.	K . Substantiated
L . SGT Anthony Egan	Abuse of Authority: Sergeant Anthony Egan interfered with § 87(2)(b) use of a recording device.	L . Substantiated
M . SGT Anthony Egan	Force: Sergeant Anthony Egan struck § 87(2)(b) with a baton.	M . Substantiated
N . SGT Anthony Egan	Abuse of Authority: Sergeant Anthony Egan interfered with § 87(2)(b) use of a recording device.	N . Substantiated
O . SGT Anthony Egan	Abuse of Authority: Sergeant Anthony Egan damaged § 87(2)(b)' property.	O . Substantiated
P . An officer	Force: An officer used physical force against § 87(2)(b).	P . Officer(s) Unidentified
Q . An officer	Abuse of Authority: An officer damaged § 87(2)(b) property.	Q . Officer(s) Unidentified
R . SGT Anthony Egan	Force: Sergeant Anthony Egan used physical force against § 87(2)(b).	R . Substantiated

Officer(s)	Allegation	Investigator Recommendation
S . SGT Anthony Egan	Force: Sergeant Anthony Egan struck § 87(2)(b) with a baton.	S . § 87(2)(g)
T . POM William Pugliese	Abuse of Authority: Police Officer William Pugliese interfered with individuals' use of recording devices.	T . § 87(2)(g)
U . INS Joseph Gulotta	Abuse of Authority: Inspector Joseph Gulotta refused to provide his name to § 87(2)(b).	U . § 87(2)(g)
V . CPT John Doesberg	Abuse of Authority: Captain John Doesberg refused to provide his name to § 87(2)(b).	V . § 87(2)(g)
W . SGT Anthony Egan	Abuse of Authority: Sergeant Anthony Egan refused to provide his name and shield number to § 87(2)(b).	W . § 87(2)(g)
X . An officer	Abuse of Authority: An officer threatened to arrest § 87(2)(b).	X . § 87(2)(g)
Y . An officer	Off. Language: An officer made remarks to § 87(2)(b) based upon race.	Y . § 87(2)(g)
Z . INS Joseph Gulotta	Abuse of Authority: Inspector Joseph Gulotta refused to provide his name and shield number to § 87(2)(b).	Z . § 87(2)(g)
AA. POM Aurel Hoxha	Abuse of Authority: Police Officer Aurel Hoxha did not obtain medical treatment for § 87(2)(b).	AA. § 87(2)(g)
§ 87(4-b), § 87(2)(g)		
AC. SGT Anthony Egan	Other: There is evidence suggesting Sergeant Anthony Egan provided a false official statement in violation of PG 203-08, which the CCRB referred to IAB on January 13, 2017, generating log number 17-1767.	AC. § 87(2)(g)

### Case Summary

On September 6, 2016, § 87(2)(b) and § 87(2)(b) filed the following CCRB complaint via the intake line on behalf of themselves, § 87(2)(b) and § 87(2)(b) (Board Review 01; 02). That same day, § 87(2)(b) and § 87(2)(b) filed duplicate complaints with the Internal Affairs Bureau (IAB) (Board Review 03; 04). The complaints generated original log numbers 16-31737 and 16-31633, respectively, and were received at the CCRB on September 26, 2016. On September 6, 2016, § 87(2)(b) also filed a complaint with the Mayor's Office (Board Review 05). The complaint was received at the CCRB on September 26, 2016.

On September 3, 2016, at approximately 10:30 p.m. Inspector Joseph Gulotta and numerous other officers of the 67<sup>th</sup> Precinct entered the backyard of § 87(2)(b) in Brooklyn, where a party was occurring for Labor Day Weekend (**Allegation A**). Officers seized § 87(2)(b)'s speakers (**Allegations B**). As § 87(2)(b) recorded the incident, Sergeant Michael Scally allegedly pushed § 87(2)(b) (**Allegation C**). § 87(2)(b) requested PO Kenneth Triolo's name, which PO Triolo refused to provide (**Allegation D**). PO Triolo allegedly pushed § 87(2)(b)'s phone as § 87(2)(b) recorded the incident (**Allegation E**). Sergeant § 87(2)(b) Egan allegedly placed § 87(2)(b) in a chokehold, restricting his breathing as a result (**Allegations F and G**).

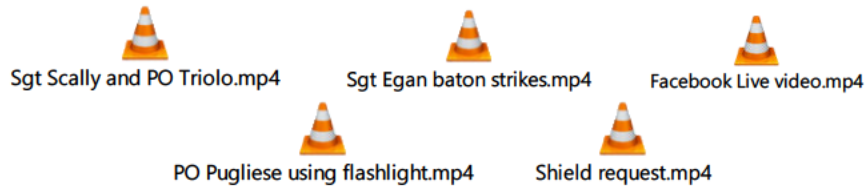
As officers were apprehending § 87(2)(b) Sgt Egan struck § 87(2)(b) head with a baton (**Allegation H**). Sgt Egan then approached § 87(2)(b) and § 87(2)(b) all of whom were recording the incident on their phones, and struck them with his baton, causing damage to § 87(2)(b) cell phone (**Allegations I, J, K, L, M, N, and O**). § 87(2)(b) was arrested, and while being led out of the backyard, an unidentified officer or a group of officers allegedly slammed him against § 87(2)(b)'s van, causing a dent to the van (**Allegations P and Q**). Sgt Egan then punched § 87(2)(b) and allegedly struck him with a baton (**Allegations R and S**).

As civilians filmed the officers, PO William Pugliese shined his flashlight into their cameras (**Allegation T**). § 87(2)(b) requested Inspector Gulotta and Captain John Doesberg's names, and Sgt Egan's name and shield number, which the officers allegedly refused to provide (**Allegations U, V, and W**). § 87(2)(b) attempted to approach § 87(2)(b) while he was in police custody, and an unidentified officer allegedly told her that if she crossed the street she would be arrested (**Allegation X**). At some point, an unidentified officer allegedly stated, "A black man owns this house in this neighborhood?" (**Allegation Y**). § 87(2)(b) requested Inspector Gulotta's name and shield number, which he refused to provide (**Allegation Z**). § 87(2)(b) allegedly asked PO Aurel Hoxha to go to the hospital, but he was never taken to the hospital (**Allegation 2A**). § 87(2)(b) and § 87(2)(b) were arrested for § 87(2)(b), § 87(2)(a) CPL 160.50 among other charges (Board Review 07; 08; 09; 10).

This case went beyond the 90-day benchmark by approximately seven months due to extensive attempts to obtain pertinent video footage and sworn statements from civilians and witnesses, a nearly four-month delay in receiving necessary NYPD documents, and the hurdles involved with identifying numerous subject officers.

An APU Prosecutor was consulted in regard to the entry, property seizure, force, and false official statement allegations.

§ 87(2)(b) provided a video taken by an unknown individual (Board Review 66). IAB provided a duplicate video, a video taken by § 87(2)(b) via the Facebook Live application, a video taken by § 87(2)(b) and two videos taken by unknown individuals (Board Review 65; 67; 68; 69). Relevant portions of the footage are embedded below (Board Review 60; 61; 62; 63; 64). The full versions can be found in IA's 116, 220, and 223.



### **Mediation, Civil and Criminal Histories**

- This complaint was unsuitable for mediation.
- As of December 21, 2016, nearly three weeks past the 90-day filing deadline, a Notice of Claim had not been filed with the City of New York with regard to this incident (Board Review 06).
- As a result of this incident, § 87(2)(b) and § 87(2)(b) cases were adjourned in contemplation of dismissal (Board Review 11; 12; 13).
- According to the Office of Administration (OCA) records and the Booking and Arraignment Disposition System (BADS), § 87(2)(b) and § 87(2)(b) have no prior criminal convictions or arrests in the City of New York (Board Review 11; 12; 13; 14).
- According to the Office of Administration (OCA) records and the Booking and Arraignment Disposition System (BADS), § 87(2)(b) has not been arrested and has no prior criminal convictions in the last ten years in the City of New York (Board Review 15).
- § 87(2)(b)
- § 87(2)(b)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint involving § 87(2)(b) and § 87(2)(b) (Board Review 18).
- Inspector Gulotta has been a member of the NYPD for twenty-five years. He has had thirteen past CCRB complaints involving twenty-five allegations, one of which was substantiated. In case 201210050, an allegation of detainment was substantiated against him and he received instructions in regards. Among Inspector Gulotta's other past allegations were six allegations of entries/searches of premises, five of which were exonerated and one of which was unsubstantiated, and three allegations of refusal to provide name/shield, all of which were unsubstantiated.
- Sgt Scally has been a member of the NYPD for eight years. He has had four past CCRB complaints involving eight allegations, none of which were substantiated. Two of his past allegations were of physical force, one of which was unsubstantiated, and one of which was closed as "complainant uncooperative." § 87(2)(g)
- PO Triolo has been a member of the NYPD for two years. He has had one other CCRB complaint involving one allegation for "gun drawn," which was exonerated.
- Sgt Egan has been a member of the NYPD for nine years. He has had nine past CCRB complaints involving fourteen allegations, none of which were substantiated. Among his past allegations was one allegation of a threat of force and five allegations of physical force, including one for using a baton. The physical force (baton) and threat of force allegations were closed as "complainant/victim uncooperative." Two of the other physical force allegations were exonerated, and the others were unsubstantiated and unfounded. § 87(2)(g)

- Captain Doesberg has been a member of the NYPD for eighteen years. He has had two past CCRB complaints involving three allegations, none of which were substantiated. § 87(2)(g)
- PO Pugliese has been a member of the NYPD for four years. He has had four past CCRB complaints involving eight allegations, none of which were substantiated. He has one other open CCRB complaint, case 201704935, in which three allegations are pleaded against him. § 87(2)(g)
- PO Hoxha has been a member of the NYPD for two years. He has one other open complaint, case 201701984, in which one allegation is pleaded against him. § 87(2)(g)  
PO Hoxha has no other CCRB complaints.

### Potential Issues

- § 87(2)(b) a victim, was unavailable to the investigation, and § 87(2)(b) another victim, was uncooperative. Witnesses § 87(2)(b) and § 87(2)(b) were also uncooperative. The CCRB therefore did not obtain sworn statements from § 87(2)(b) or § 87(2)(b) (For full contact attempts, see IAs).
- § 87(2)(b) and § 87(2)(b) confirmed that they had video footage of the incident, including footage from § 87(2)(b)'s security cameras, which he stated captured all portions of the incident including the alleged force. Both § 87(2)(b) and § 87(2)(b) refused to provide footage to the CCRB during their interviews (Board Review 20; 21). Following their interviews, extensive contact attempts were made to them to obtain video footage, and DropBox folders were generated to assist them in providing the footage. Ultimately, neither § 87(2)(b) nor § 87(2)(b) provided footage to the CCRB.
- § 87(2)(b) and § 87(2)(b) stated that they sustained injuries as a result of the alleged force used against them during the incident, and that they received medical attention following the incident (Board Review 28; 29). § 87(2)(b) and § 87(2)(b) refused to sign HIPAA forms at the time of their interviews and did not respond to subsequent requests to sign HIPAA forms. The CCRB therefore did not obtain their medical records.
- For convenience of viewing, some video files were transformed into slow-motion media files. However, given that these Snag-it versions of the video evidence significantly alter the clarity of the video, all video evidence should also be observed from the Board Reviews, as well as the embedded media files.

### Findings and Recommendations

#### Explanation of Subject Officer Identification

Inspector Gulotta, who was working as the Commanding Officer (CO) on the date of the incident, was interviewed at the CCRB (Board Review 42). He confirmed that he made the decision for officers to enter the backyard of § 87(2)(b) and to seize the music equipment. **Allegations A and B** have therefore been pleaded against him.

In addition to his original complaint, § 87(2)(b) provided a sworn statement to the CCRB (Board Review 20). § 87(2)(b) alleged that while he was standing on a staircase, he was pushed by a sergeant who had three stripes on his uniform. This was around the same time that he was interacting with PO Triolo. Video footage obtained from IAB and determined to be taken by § 87(2)(b) showed Sgt Scally and PO Triolo standing in front of § 87(2)(b) with no other officers in the immediate vicinity (Board Review 223). PO Triolo was wearing bracelets on both wrists, and Sgt Scally was not. The footage showed an arm move toward § 87(2)(b) and it was identified to be Sgt Scally's arm based on the absence of any bracelets. Though Sgt Scally denied pushing § 87(2)(b) based on the footage, **Allegation C** has been pleaded against him.

§ 87(2)(b) provided phone statements and a sworn statement to the CCRB, as well as a statement to IAB (Board Review 24; 29; 34; 35; 46). He alleged that an officer placed him in a chokehold and restricted his breathing, and that the same officer later punched him by § 87(2)(b)'s van. § 87(2)(b)

described the officer as a white male who may have been in his 40s, wearing a uniform with stripes on it. § 87(2)(b) identified Sgt Egan to be the officer who used a chokehold against § 87(2)(b) and later punched him by the van. § 87(2)(b) did not allege that she witnessed the chokehold, but she identified the officer who punched § 87(2)(b) to be Sgt Egan. Although Sgt Egan denied using a chokehold against § 87(2)(b) and restricting his breathing as a result, based on the witness statements, **Allegations F and G** have been pleaded against him.

§ 87(2)(b) alleged that while being escorted down the driveway by approximately seven officers, he was slammed against § 87(2)(b)'s van, causing a dent to the van. § 87(2)(b) was inconsistent in his statements to IAB and the CCRB, at some points stating Sgt Egan slammed him against the van, and at other points, stating he did not know who did so. Though § 87(2)(b) and § 87(2)(b) stated they saw Sgt Egan pushed § 87(2)(b) against the van, § 87(2)(b) and § 87(2)(b) stated they could not tell which officer(s) did so. § 87(2)(b) stated he had footage of the alleged force, but did not show or provide the footage to IAB or the CCRB, and no provided footage captured the alleged force. None of the interviewed officers recounted escorting § 87(2)(b) down the driveway, and they denied or did not recall using or observing an officer use the alleged force.

Given § 87(2)(b) and the witnesses' inconsistent statements, as well as the absence of corroborating video footage or police documentation, **Allegations P and Q** have been pleaded against "an officer."

§ 87(2)(b) alleged that an officer threatened to arrest her, but she did not describe the officer or respond to subsequent contact attempts to provide the investigation with details of the subject officer. No civilians or officers acknowledged hearing or making the threat of arrest, and the alleged threat was not captured in video footage. Absent additional identifying information of the officer who allegedly threatened to arrest § 87(2)(b), **Allegation X** has been pleaded against "an officer."

§ 87(2)(b) alleged that a female officer commented, "A black man owns this house in this neighborhood?" (Board Review 21). § 87(2)(b) described this officer as a white or Hispanic female in her 30s, who was slim, may have been blond, and was in uniform. Based on the video footage and officer interviews, the investigation identified five uniformed female officers ages 26 through 31, three of whom were Hispanic, two of whom were white, and three of whom were blond. No other civilians heard the alleged statement first hand, and all interviewed officers denied making or hearing an officer make the alleged statement. Absent additional identifying information or corroborating video evidence, **Allegation Y** has been pleaded against "an officer."

§ 87(2)(b) alleged that once at the 67<sup>th</sup> Precinct Stationhouse, he told an officer he wanted to go to the hospital. This officer had driven § 87(2)(b) to the stationhouse pursuant to his arrest. PO Aurel Hoxha was interviewed at the CCRB and confirmed that he drove all of the arrestees to the stationhouse (Board Review 50). Although PO Hoxha denied that anyone made any requests to him for medical attention, **Allegation 2A** has been pleaded against him.

### **Allegations Not Pleased**

- **Force** – § 87(2)(b) and § 87(2)(b) alleged that an officer(s) forcefully pushed § 87(2)(b) against a wall. In his unsworn phone statement to the CCRB, § 87(2)(b) stated that he witnessed officers use force, but he did not allege that any force was used against him. Additionally, he did not provide a sworn statement to the CCRB. A force allegation has therefore not been pleaded on his behalf.
- **Discourtesy** – § 87(2)(b) alleged that an officer, identified as Sgt Egan, told § 87(2)(b) to "shut the fuck up." No other civilians alleged this, and § 87(2)(b) did not allege the discourteous language in his statement to IAB. Additionally, § 87(2)(b) did not provide a sworn statement to the CCRB. A discourteous language allegation has therefore not been pleaded.



- **Force** – § 87(2)(b) alleged that Sgt Egan punched § 87(2)(b) did not provide a sworn statement to the CCRB and did not allege that he was punched in his statement to IAB. A force allegation has therefore not been pleaded on his behalf.
- **Offensive Language** – § 87(2)(b) and § 87(2)(b) alleged that an officer, identified as PO Pugliese, commented to another officer, “Look, there’s a white guy here.” The civilians did not know the name of the white individual PO Pugliese was referring to. Because the context of PO Pugliese’s statement is in dispute, because his statement was made to another officer rather than civilian, and because the white male in question remains unidentified, an offensive language allegation has not been pleaded.
- **Property Damage** – § 87(2)(b) stated that following the incident, he went to court to pick up his speakers which had been seized, and he saw that a fluorescent light(s) attached to the speaker(s) was broken. § 87(2)(b) did not see who damaged the light, and acknowledged that both officers and civilians were handling the speakers during the incident. Seeing as it is unknown whether the alleged damage was caused by an officer or civilian, a property damage allegation has not been pleaded.

**Allegation A – Abuse of Authority: Inspector Joseph Gulotta authorized the entry into the backyard of § 87(2)(b) in Brooklyn.**

An APU prosecutor was consulted in regard to this allegation.

It is undisputed that at approximately 10:30 p.m., under Inspector Gulotta’s authorization, Inspector Gulotta and other officers entered the backyard of § 87(2)(b) a private, fully fenced-in property. They gained access into the property through a gate in the front yard. It is further undisputed that the officers did not enter the house at any point.

In addition to his original CCRB and IAB complaints, § 87(2)(b) provided phone statements and a sworn statement to the CCRB, and an in-person statement to IAB (Board Review 21; 36; 47; 80). His statements were generally consistent. § 87(2)(b) the owner of § 87(2)(b) stated that on the evening of the incident, which was during Labor Day weekend and J’Ouvert, he was playing loud music in his backyard out of six large speakers which were all attached to a controller and laptop(s). There were approximately 25 civilians at the location. The music was loud enough to be heard from the front yard and from five or six houses away. From § 87(2)(b)’s home, he could also hear music coming from approximately five other locations.

At approximately 10:30 p.m., an unidentified female officer entered the backyard and approached § 87(2)(b) and § 87(2)(b) who were standing at the end of the driveway toward the entrance of the backyard, near the music controller. She instructed § 87(2)(b) to turn the music off, and he immediately complied. The officer did not speak to anyone else at that point. Two additional officers, identified as Captain Doesberg and Inspector Gulotta, then arrived with numerous other officers following behind. Captain Doesberg also instructed § 87(2)(b) to turn the music off, though the music already was off. Officers then seized the music equipment.

In addition to his original IAB complaint, § 87(2)(b) provided a phone and sworn statement to the CCRB, and an in-person statement to IAB (Board Review 25; 31; 44). § 87(2)(b) provided a phone and sworn statement to the CCRB (Board Review 26; 27). § 87(2)(b) provided a phone statement to the CCRB, and § 87(2)(b) provided a statement to IAB (Board Review 22; 45). § 87(2)(b) and § 87(2)(b) statements were generally consistent with § 87(2)(b)’s statements. They stated that an officer approached § 87(2)(b) or an individual controlling the music, and instructed him to turn it off, and the order was immediately complied with.

Inspector Gulotta, who was the commanding officer that evening, stated that while driving down Snyder Avenue with his windows up, he heard music coming from § 87(2)(b). The music was so loud that it shook his RMP. Though there had been no noise complaint regarding the location, Inspector Gulotta made the decision to enter the location to speak to the owner of the property and abate the music.

Immediately upon entering, he approached the DJ booth/music controller, which was at the end of the driveway, right where the backyard began, and he attempted to speak with whoever seemed to be in charge. He asked a male standing by the music controller to lower the music.

Captain Doesberg acknowledged that there was music coming from other houses in the area, but he stated that the music coming from § 87(2)(b) was significantly louder than music at the other houses (Board Review 41).

When officers hear or receive a complaint for unreasonable noise, they are required to interview the violators about the noise, determine whether the noise is unreasonable, and attempt to correct the condition. The decision to forcibly enter a private premise to correct the noise condition can only be made by a precinct commander or duty captain. NYPD Patrol Guide, section 214-23 (Board Review 51).

Although there had been no noise complaint regarding the location, and although there were other parties in the area, the civilian and officer statements indicate that the music coming from § 87(2)(b)'s backyard was loud enough to be heard from the front of the house and at least a few houses away. Both the civilians and officers agreed that upon entering the location, Inspector Gulotta went directly to whoever was playing the music, and requested that he turn it down or off. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation B – Abuse of Authority: Inspector Joseph Gulotta authorized the seizure of § 87(2)(b)'s property.**

An APU prosecutor was consulted in regard to this allegation.

§ 87(2)(b) and § 87(2)(b) statements were generally consistent. They stated that § 87(2)(b) turned the music off immediately after being asked to do so. An officer in a white shirt then instructed § 87(2)(b) to break down the music equipment. § 87(2)(b) and other individuals began to dismantle the music equipment. § 87(2)(b) asked the officers to leave, as they were on private property and he had complied with their request to turn the music off. An officer then stated that they were going to take the music system. Officers seized § 87(2)(b)'s speakers.

§ 87(2)(b) and § 87(2)(b) statements were generally consistent with § 87(2)(b)'s, and they alleged that after § 87(2)(b) turned off the music and told officers to leave, an officer stated that they were going to seize the equipment.

Inspector Gulotta stated that after instructing a male, identified as § 87(2)(b) to lower the music and keep it lowered for the night, § 87(2)(b) turned the music off or lowered the volume to a level in which he and Inspector Gulotta could hear each other. § 87(2)(b) told Inspector Gulotta, "Get the fuck off my property." He turned back to the music equipment and touched it as if he was going to turn the music back on. Inspector Gulotta could not recall if the music came back on. He then instructed an officer to seize the music equipment.

The Criminal Court Complaint states that § 87(2)(b) was arrested for an unreasonable noise violation (Administrative Code 24-218), among other things (Board Review 74). The property vouchers state that his speakers were vouchered as arrest evidence (Board Review 71).

When making an arrest, officers may seize property as arrest evidence. NYPD Patrol Guide, section 218-01 (Board Review 52). After warning the violator, officers may seize sound reproduction devices as evidence that the violator possessed the devices, that the devices were operable, and to demonstrate the volume at which the devices were being operated. NYPD Patrol Guide, section 214-23 (Board Review 51).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation C – Force: Sergeant Michael Scally used physical force against § 87(2)(b)**

In his sworn CCRB statement, § 87(2)(b) stated that while he was recording the incident and standing on an outdoor staircase in the backyard, officers arrested § 87(2)(b) directly in front of him. A sergeant, identified via the investigation as Sgt Scally, pushed § 87(2)(b)'s chest with one hand, causing § 87(2)(b) to stumble down to the lower part of the staircase. Officers repeatedly told § 87(2)(b) to back up and go all the way down the stairs. § 87(2)(b) only backed up slightly so he could still capture the incident on camera.

Video footage taken by § 87(2)(b) and obtained from IAB showed that § 87(2)(b) who was bleeding, was handcuffed directly next to § 87(2)(b) and numerous officers were attempting to apprehend § 87(2)(b) a few feet away (Board Review 60). As officers were handcuffing § 87(2)(b) yelled and put the camera near § 87(2)(b) and the officers. An officer yelled at § 87(2)(b) to back up multiple times but § 87(2)(b) remained near the top of the staircase. Sgt Scally's hand moved toward § 87(2)(b) but it was unclear whether his hand made contact with § 87(2)(b) (0:32 on the digital recording below). The action did not appear to make § 87(2)(b) move much, if at all. PO Triolo, who was standing next to Sgt Scally, repeatedly told § 87(2)(b) to back up, and not to stand behind his "boss's" back.



Sgt Scally and PO Triolo.mp4

During his CCRB interview, Sgt Scally recognized § 87(2)(b) when presented with his photo, but could not recall § 87(2)(b)'s role in the incident (Board Review 38). He stated that both the officers and civilians were pushing each other, largely because it crowded and difficult to move, and that civilians also pushed officers to prevent them from arresting people and taking the music equipment. Sgt Scally stated that he may have pushed some people who were pushing officers, but he denied pushing § 87(2)(b). Sgt Scally reviewed the above-referenced video footage but was unable to tell whether the hand seen moving toward § 87(2)(b) was his hand. He identified himself as an officer yelling at § 87(2)(b) to back up.

PO Triolo was interviewed at the CCRB and stated § 87(2)(b) stood less than a foot behind Sgt Scally as Sgt Scally and other officers were attempting to handcuff a civilian (Board Review 37). Though § 87(2)(b) did not interfere with the arrest, he posed a safety issue standing so close behind Sgt Scally, as Sgt Scally's gun was at his waist and his back was facing § 87(2)(b). PO Triolo and Sgt Scally repeatedly told § 87(2)(b) to back up, and PO Triolo eventually moved himself between § 87(2)(b) and Sgt Scally, extending his arm to create space between them. PO Triolo initially stated that Sgt Scally pushed § 87(2)(b) back, but then stated he could not recall if Sgt Scally did so.

Officers may use force to reasonably ensure the safety of a member of service or a third person, or to enforce compliance. NYPD Patrol Guide, section 221-01 (Board Review 53).

§ 87(2)(g)

**Allegation D – Abuse of Authority: Police Officer Kenneth Triolo refused to provide his name to**

§ 87(2)(b)

§ 87(2)(b) stated that after officers repeatedly told him to move back, he asked an officer, identified via the investigation as PO Triolo, for his badge number. PO Triolo replied, “1353535.” § 87(2)(b) then asked for PO Triolo’s name, but PO Triolo ignored him. Throughout the incident, many people were screaming and pushing, and there was “a lot going on.”

Footage taken by § 87(2)(b) showed PO Triolo yell his badge number to § 87(2)(b) upon request, and then focus his attention back toward § 87(2)(b) who officers were attempting to apprehend (Board Review 60 – 0:50 on the digital recording below). At the same time as PO Triolo was talking to § 87(2)(b) § 87(2)(b) asked for his badge number. PO Triolo then moved further away from § 87(2)(b) requested PO Triolo’s name again, and repeatedly yelled throughout the video. PO Triolo did not look at or respond to § 87(2)(b). He instead stared at § 87(2)(b) and then moved closer to § 87(2)(b) in what appears to be an attempt to assist. The footage showed a large number of police officers and civilians, many of whom were speaking and yelling at once.



Sgt Scally and PO Triolo.mp4

PO Triolo described the scene as “chaos,” and stated that there was a “lot of screaming.” After PO Triolo repeatedly told § 87(2)(b) to back up, § 87(2)(b) requested PO Triolo’s shield number, which PO Triolo provided to him. PO Triolo did not recall hearing § 87(2)(b) request his name, even after reviewing the video footage, but stated that he would have provided his name to § 87(2)(b) if he heard his request. He added that the scene was too chaotic to pay attention to everyone. PO Triolo’s badge number is 13535.

PO Triolo’s memo book states, “1 male unknown ask for my shield number. Gave it to him” (Board Review 78). The memo book did not note that anyone requested his name.

Officers are to clearly state their name and shield number, or otherwise provide such information to anyone who requests it. NYPD Patrol Guide, section 203-09 (Board Review 54).

It is undisputed that upon request, PO Triolo provided his shield number to § 87(2)(b) but did not provide his name to § 87(2)(b) § 87(2)(g)

**Allegation E – Abuse of Authority: Police Officer Kenneth Triolo interfered with § 87(2)(b) s use of a recording device.**

§ 87(2)(b) stated that after being told numerous times to back up, he held his phone near PO Triolo’s face. PO Triolo pushed § 87(2)(b) s phone and said, “Goodbye.” This did not cause the phone to fall.

The footage taken by § 87(2)(b) depicted § 87(2)(b) yelling to PO Triolo, “I can record!” (Board Review 60). PO Triolo repeatedly yelled to § 87(2)(b) “Record! Record down there!” while pointing down the stairs. After providing his badge number to § 87(2)(b) PO Triolo flung his arm in the air twice and stated, “Go! Have a good day!” When he flung his arm a second time, a noise was heard, but it was unclear whether his hand made contact with the phone. The camera did not appear to move (0:33 on the digital recording).





Sgt Scally and PO Triolo.mp4

PO Triolo stated that after telling § 87(2)(b) to step back approximately two times, he moved himself between § 87(2)(b) and Sgt Scally and extended his arm with his palm up to create space between § 87(2)(b) and Sgt Scally and ensure that § 87(2)(b) would not come closer, for safety purposes. PO Triolo told § 87(2)(b) that he was permitted to record, but told him to record down the steps and that he could not stand behind officers' backs. PO Triolo denied making physical contact with § 87(2)(b) and had no knowledge of making contact with § 87(2)(b)'s phone, even after reviewing the footage. He denied attempting to prevent § 87(2)(b) from recording.

Individuals are permitted to observe, take photos, or videotape police incidents unless the safety of officers or other persons is directly endangered, or officers have probable cause to believe the observer is obstructing governmental administration. NYPD Patrol Guide, section 208-03 (10) (Board Review 55).

§ 87(2)(g)

**Allegation F – Force: Sergeant Anthony Egan used a chokehold against § 87(2)(b)**

**Allegation G – Force: Sergeant Anthony Egan restricted § 87(2)(b)'s breathing.**

§ 87(2)(b) was § 87(2)(b)-old at the time of the incident. He explained that he has Sciatica, which causes him to have little to no feeling in his right foot, and makes him unable to walk properly, stand for long, or balance himself for long (Board Review 29). He has had three surgeries on his left arm, and is unable to lift that arm up high or move it behind his back with ease.

§ 87(2)(b) stated that upon noticing officers in the backyard, he approached them to ask what was going on. He held onto a railing to maintain his balance and to avoid falling on a nearby hot pot. Officers pushed and attempted to pull him away from the railing, but they did not state he was under arrest.

§ 87(2)(b) continued trying to hold the railing so he would not fall. While officers pulled at him, an officer, identified via the investigation as Sgt Egan, put the bend of his arm around § 87(2)(b)'s neck and held the position for over ten seconds. § 87(2)(b) was unable to describe Sgt Egan's actions further, but referred to the action as a "chokehold." § 87(2)(b)'s breathing was restricted, though during his phone statement he stated he was unsure whether his breathing was restricted as a direct result of the chokehold or because people of his stature get out of breath easily. He did not express that his breathing was restricted to officers. Another officer told Sgt Egan to let go, and Sgt Egan complied. § 87(2)(b) stated that § 87(2)(b) had video footage capturing the chokehold.

§ 87(2)(b) stated that as his brother, § 87(2)(b) was being arrested, § 87(2)(b) approached officers to ask what was going on. Officers surrounded § 87(2)(b) pushing and pulling him, and Sgt Egan then placed § 87(2)(b) in a chokehold with the bend of his arm around § 87(2)(b)'s neck. During his sworn statement, § 87(2)(b) stated he observed the chokehold first hand. However, in a follow-up phone statement, he denied witnessing the chokehold first hand and stated he saw it from his house's surveillance footage. As addressed in the Potential Issues section, § 87(2)(b) failed to provide video footage to the CCRB.

In his phone statement, § 87(2)(b) stated he observed an unspecified officer place § 87(2)(b) in a chokehold. Both § 87(2)(b) and § 87(2)(b) stated that another officer then told the officer using the chokehold to stop, and the officer complied.

§ 87(2)(b) alleged that an unknown officer placed the bend of his arm around § 87(2)(b)'s throat, but stated that Sgt Egan was not the officer to do so. In his statement to IAB, § 87(2)(b) stated that an unspecified officer grabbed § 87(2)(b) around the neck. He first described the action as a chokehold and later as a headlock.

§ 87(2)(b) observed officers approach and handle § 87(2)(b) aggressively, but he and § 87(2)(b) denied observing an officer use or attempt to use a chokehold. No other civilians mentioned the use of a chokehold in their CCRB statements. As addressed in the Potential Issues section, neither § 87(2)(b) nor § 87(2)(b) provided a sworn statement to the CCRB.

Sgt Egan was interviewed at the CCRB and stated he did not recall making contact with any civilian's head or neck (Board Review 79). He denied using or seeing another officer use a chokehold against any individual.

Eight other officers were interviewed at the CCRB (Board Review 37; 38; 41; 42; 43; 48; 49; 50). They all denied using or seeing another officer use a chokehold against any individual, and denied observing an officer make physical contact with any civilian's neck. The officers did not hear anyone express that their breathing was restricted. Some of the interviewed officers did not arrive at the incident until the arrests had already been made.

Footage from IAB shows officers attempting to handcuff § 87(2)(b) but no footage captured any officer placing him in a chokehold.

§ 87(2)(b) was consistent in his statements to IAB and the CCRB that Sgt Egan placed him in a chokehold, but he was unable to describe the action in detail and was inconsistent as to whether the chokehold restricted his breathing. § 87(2)(b) and § 87(2)(b) provided overwhelmingly consistent accounts that the chokehold occurred, but there were inconsistencies in their statements, including whether they each observed the action firsthand and the identity of the subject officer responsible for placing § 87(2)(b) in the chokehold. Moreover, the number of civilian witnesses who did not see the chokehold, or could not describe it in detail, including § 87(2)(b) and § 87(2)(b) brought the validity of the claim into question. Additionally, all interviewed officers denied that the chokehold occurred. While § 87(2)(b) and § 87(2)(b) insisted that § 87(2)(b) had footage capturing the chokehold, § 87(2)(b) refused to provide the footage to the CCRB.

§ 87(2)(g)

#### **Allegation H – Force: Sergeant Anthony Egan struck § 87(2)(b) with a baton.**

An APU Prosecutor was consulted in regard to this allegation.

As addressed in the Potential Issues section, § 87(2)(b) did not provide any statements to the CCRB. In his statement to IAB, § 87(2)(b) stated that upon seeing officers push § 87(2)(b) and grab his neck, § 87(2)(b) told the officers not to grab him in such a manner, as he was old and had three surgeries on his arm (Board Review 45). Officers told § 87(2)(b) to back up, and he complied. An officer then began punching § 87(2)(b) and so § 87(2)(b) approached officers and yelled, “What are you doing?!... This is an old

man!” Officers again told § 87(2)(b) to back up. He backed up against a railing, which prevented him from moving back any further.

Sgt Egan then approached § 87(2)(b) and attempted to punch him, but § 87(2)(b) backed away. § 87(2)(b) could not recall if Sgt Egan was among the officers who had previously told him to back up. Sgt Egan then stated, “Give me your hands,” and he may have attempted to grab § 87(2)(b) hand. § 87(2)(b) asked Sgt Egan, “Why?” and he may have pulled his hand back. Sgt Egan then struck § 87(2)(b) head with his baton, causing a laceration to his head, and causing § 87(2)(b) to feel “in a daze.” Sgt Egan then brought § 87(2)(b) hand behind his back and instructed other officers to arrest § 87(2)(b). Laceration did not require stitches.

§ 87(2)(b) and § 87(2)(b) s sworn statements were generally consistent with § 87(2)(b) IAB statement. They stated that as officers were attempting to apprehend § 87(2)(b) told officers that § 87(2)(b) was elderly, disabled, and had had arm surgery, but he did not physically interfere. Sgt Egan then turned around and struck § 87(2)(b) forehead with his baton, causing § 87(2)(b) forehead to bleed. § 87(2)(b) added that he could hear the impact of the baton against § 87(2)(b) head. No officers had attempted to apprehend § 87(2)(b) prior to the baton strike. After being struck, § 87(2)(b) was handcuffed and escorted out of the backyard. § 87(2)(b) and § 87(2)(b) stated that § 87(2)(b) was compliant with being handcuffed.

§ 87(2)(b) and § 87(2)(b) stated that they heard § 87(2)(b) and other individuals tell officers that § 87(2)(b) was elderly. § 87(2)(b) walked down a staircase and when he walked back up, he saw that § 87(2)(b) forehead was bleeding, but did not see what preceded this. § 87(2)(b) did not see Sgt Egan strike § 87(2)(b) firsthand.

Sgt Egan stated that some civilians punched or attempted to punch officers. When asked if he specifically saw any civilians do so, Sgt Egan initially replied that he was “focused on himself,” but then stated that he saw § 87(2)(b) punch an officer’s shoulder. He could not recall which officer § 87(2)(b) punched. Upon seeing § 87(2)(b) punch the officer, Sgt Egan attempted to handcuff § 87(2)(b) by grabbing his wrist and telling him to put his hand behind his back. Sgt Egan first stated he could not recall § 87(2)(b) response, but then stated § 87(2)(b) refused to put his hands behind his back and did not comply at any point. He later stated that § 87(2)(b) attempted to move his hands away from Sgt Egan and attempted to strike Sgt Egan with his fists.

Sgt Egan then punched § 87(2)(b) though he could not recall where on § 87(2)(b) body he punched or if he punched § 87(2)(b) more than once. The punch(es) was ineffective, and so Sgt Egan took out his baton, attempting to gain compliance by displaying the baton. § 87(2)(b) still did not comply, and so Sgt Egan swung his baton in an “X-like fashion” toward § 87(2)(b) shoulders. Sgt Egan denied attempting to strike § 87(2)(b) head with his baton, and he did not recall the baton successfully making contact with § 87(2)(b). At least one officer assisted Sgt Egan in apprehending § 87(2)(b) though Sgt Egan could not recall which officers did so. § 87(2)(b) did not willingly comply at any point, and the officers had to forcefully bring his wrists behind his back. Sgt Egan denied observing any injuries on § 87(2)(b) even after reviewing § 87(2)(b) arrest photo, which shows a bandage on his head, and video footage that showed § 87(2)(b) bleeding.

Inspector Gulotta stated that at some point, he observed Sgt Egan holding and then dropping his baton while in the crowd. Inspector Gulotta did not see Sgt Egan holding it again. Inspector Gulotta stated that Sgt Egan was then involved in a physical “fight” with an individual in the crowd, but Inspector Gulotta was unable to describe the fight or explain what made it a fight, and denied seeing the individual use any force against Sgt Egan. Inspector Gulotta was unable to confirm whether the individual was § 87(2)(b). Shortly after the baton fell from Sgt Egan’s hand, Inspector Gulotta saw Sgt Egan strike the individual once. He could not tell what Sgt Egan used to strike the individual, or what part of the individual’s body was struck. He could not tell if any other officers were addressing the individual, and did not know what happened to the individual after he was struck. He did not see any other incident involving a baton.

Captain Doesberg stated that the backyard was loud. At some point, he heard some sort of impact. He looked toward the impact and saw Sgt Egan, who was approximately twenty feet away, “cocked back” away from an individual while holding his baton. The baton then fell from his hand. Captain Doesberg stated that the individual was a large, elderly black male, who had a lump on his forehead. Upon reviewing § 87(2)(b) photo, Captain Doesberg stated that § 87(2)(b) was not the elderly black male, but was near Sgt Egan during Sgt Egan’s interaction with the elderly black male. Captain Doesberg recounted § 87(2)(b) moving his elbows toward officers when they previously tried to remove the music equipment, but he denied seeing § 87(2)(b) or any civilian use any type of force against officers other than pushing. Captain Doesberg did not see Sgt Egan punch or use his baton against § 87(2)(b) or the individual, and did not see what happened prior to hearing the impact.

Sgt Scally, PO Pugliese, PO Redzematovic, and PO Hoxha denied seeing Sgt Egan holding his baton at any point (Board Review 38; 43; 48; 50). PO Triolo did not recall seeing Sgt Egan used his baton, and PO Jimenez denied seeing Sgt Egan while in the backyard. The officers did not recognize § 87(2)(b) when presented with his photo. The officers observed the crowd of both civilians and officers pushing and bumping into each other.

Video footage provided by § 87(2)(b) taken by an unknown individual, showed § 87(2)(b) facing Sgt Egan while yelling, “You hit me!” (Board Review 66 – 0:05). The footage did not show what preceded this. No other officers appeared to be addressing § 87(2)(b) and they instead were addressing § 87(2)(b). Sgt Egan then swung his baton twice in an “x” like fashion toward § 87(2)(b) upper body or head, but the footage did not clearly show whether the baton made contact with him or where on his body it may have made contact (Board Review 66 – 0:08). § 87(2)(b) flinched, and Sgt Egan then swung the baton again but it did not appear to make contact with § 87(2)(b). Sgt Egan then walked away from § 87(2)(b) and the camera followed him. When it returned to § 87(2)(b) officers were handcuffing him. Footage from IAB, determined to have been taken by § 87(2)(b) showed two officers handcuffing § 87(2)(b) while he was against a railing (Board Review 60; 67). Blood was dripping from his forehead down his face. He was then escorted out of the backyard.



Sgt Egan baton strikes.mp4

Sgt Egan prepared a Threat, Resistance, and Injury (TRI) report, in which he stated that § 87(2)(b) used a hand strike and “pushing/shoving” against a member of service (Board Review 75). Sgt Egan wrote that he used a hand strike and his baton in defense of his self and other officers, and to overcome “resistance or aggression.” § 87(2)(b) arrest report, which was prepared by PO Caner Sezer, states that “when officers went to seize devices family members at the party attacked the police officers. Deft was arrested for resisting arrest, disorderly conduct, OGA, inciting riot,” (Board Review 10). § 87(2)(b) and § 87(2)(b) s arrest reports stated this same thing (Board Review 07; 08). § 87(2)(b) arrest photo shows he has a bandage on his forehead (Board Review 76).

Officers may use force when it is reasonable to place a person into custody, ensure the safety of a member of service or a third person, or to enforce compliance. When reasonable, officers should first attempt to gain voluntary compliance by using de-escalation techniques. NYPD Patrol Guide, section 221-01 (Board Review 53). The Police Student’s Guide suggests that when using impact techniques such as a baton, officers should strive to strike extremities and larger muscle groups rather than the head, which could result in serious injury or death (Board Review 56).

It is undisputed that § 87(2)(b) sustained a laceration to his forehead during the incident, which § 87(2)(b) and § 87(2)(b) accredited to Sgt Egan having struck his head with a baton. The video footage showed Sgt Egan swinging his baton at § 87(2)(b) upper body multiple times. Furthermore, Sgt Egan confirmed that he attempted to strike § 87(2)(b) with his baton, and he documented the use of his baton in the TRI report. § 87(2)(g)



§ 87(2)(g)

Sgt Egan stated that he attempted to strike § 87(2)(b) with his baton after observing § 87(2)(b) punch an officer, and after § 87(2)(b) refused to be handcuffed by moving his arms and attempting to punch Sgt Egan. Sgt Egan only provided this information when prompted by the investigator, § 87(2)(g)

§ 87(2)(b) Sgt Egan was unable to provide any details regarding § 87(2)(b) punching an officer, and he initially said he could not recall how § 87(2)(b) resisted before stating § 87(2)(b) attempted to punch him. While § 87(2)(b) stated he may have moved his hand away from Sgt Egan once, both he and the witnesses stated that just prior to the baton strike, § 87(2)(b) did not physically interfere. Instead, he simply told officers that § 87(2)(b) was old and disabled, and officers only attempted to arrest § 87(2)(b) after the baton strike. Additionally, of the eight other officers interviewed, none stated that § 87(2)(b) punched or attempted to punch any officer, and none recounted § 87(2)(b) doing anything remarkable.

§ 87(2)(g)

**Allegation I – Force: Sergeant Anthony Egan struck § 87(2)(b) with a baton.**

**Allegation J – Abuse of Authority: Sergeant Anthony Egan interfered with § 87(2)(b)'s use of a recording device.**

**Allegation K – Force: Sergeant Anthony Egan struck § 87(2)(b) with a baton.**

**Allegation L – Abuse of Authority: Sergeant Anthony Egan interfered with § 87(2)(b)'s use of a recording device.**

**Allegation M – Force: Sergeant Anthony Egan struck § 87(2)(b) with a baton.**

**Allegation N – Abuse of Authority: Sergeant Anthony Egan interfered with § 87(2)(b)'s use of a recording device.**

An APU Prosecutor was consulted in regard to these allegations.

§ 87(2)(b) stated that as the incident began to escalate, she tried to get closer to the commotion to film what was occurring on her cell phone (Board Review 28). Though she asked officers if there was a warrant, she did not get involved in any other way, and no officers issued her any commands or commented on her filming. Sgt Egan, who was not arresting anyone at the time, saw that people were filming and immediately “went crazy.” He moved toward § 87(2)(b) and told her to move, but did not make any other statements to her. He then struck her left hand with his baton, causing her phone to fall to the ground. The phone was not damaged as a result. As § 87(2)(b) went to pick up her phone, Sgt Egan struck her stomach with his baton. Sgt Egan then struck § 87(2)(b) phone with his baton, shattering the glass of the phone. § 87(2)(b) sustained abdominal pain as a result of being struck. Following the incident, § 87(2)(b)

received medical attention, but refused to release her records to the CCRB.

§ 87(2)(b) stated that he remained uninvolved during the incident and stood by a fence while attempting to film (Board Review 22). Sgt Egan approached him and struck his hand with his baton, causing § 87(2)(b)'s phone to fall to the ground. The phone was not damaged. § 87(2)(b)

§ 87(2)(b)'s hand was swollen for approximately two days but he did not receive medical attention.

§ 87(2)(b) stated that he kept his distance from the altercation between officers, § 87(2)(b) and § 87(2)(b) standing on the opposite side of a table from where § 87(2)(b) and § 87(2)(b)

were (Board Review 25; 31; 44). He was filming the incident but did not get involved in any way. No officers made any statements to him. After Sgt Egan struck § 87(2)(b) with his baton and saw that § 87(2)(b) was bleeding, he looked around and saw that people were recording the incident. These individuals were uninvolved and on the “outskirts” of the backyard. Sgt Egan then approached a male, identified as § 87(2)(b) and swung his baton at § 87(2)(b)'s phone and hand. He struck § 87(2)(b)'s phone, causing the phone to fall. He then approached § 87(2)(b) from the side and hit § 87(2)(b)'s phone and hand, causing the phone to fall and shatter. Sgt Egan did not make any statements to § 87(2)(b) at any point, and no officers had made any comments to anyone about filming.

During his CCRB interview, § 87(2)(b) presented a brief video clip that depicted his shattered phone, but he did not provide the video to the CCRB. As a result of the incident, § 87(2)(b) had difficulty bending his left pointer finger, which was swollen and bruised, but he did not receive medical attention.

§ 87(2)(b)'s statement was generally consistent with § 87(2)(b) and § 87(2)(b)'s statements. He stated that after striking § 87(2)(b) Sgt Egan went after the crowd, telling people to get back. Though Sgt Egan had told individuals to move back, the individuals were far from the arrests and had not been “bothering” Sgt Egan. No other officers addressed these individuals. Sgt Egan struck § 87(2)(b)'s waist and hand with his baton. He struck § 87(2)(b)'s phone and hand with his baton with one strike, and struck § 87(2)(b)'s phone out of his hand. These actions were unprompted and unprovoked.

§ 87(2)(b) stated that § 87(2)(b) moved closer to the location of the arrests to film, but did not become involved in any other way. Sgt Egan came “out of nowhere,” and without warning, struck § 87(2)(b)'s hand with his baton, knocking the phone onto the ground. § 87(2)(b) did not see Sgt Egan strike anyone else with his baton. § 87(2)(b) and § 87(2)(b) did not observe this portion of the incident first hand.

Video footage provided by § 87(2)(b) and IAB, taken by an unknown individual, showed § 87(2)(b) and a male identified as § 87(2)(b) standing close behind § 87(2)(b) as Sgt Egan was addressing him, prior to when officers apprehended him (Board Review 61; 66). § 87(2)(b) is seen holding her phone camera with the light shining toward Sgt. Egan. When Sgt Egan struck § 87(2)(b) with his baton, § 87(2)(b) and § 87(2)(b) ran away from Sgt Egan, § 87(2)(b) and most of the other officers (Board Review 66 – 0:00 – 0:10). § 87(2)(b) ran a few feet behind § 87(2)(b) holding his phone up, and § 87(2)(b) ran out of the frame. § 87(2)(b) stood behind a table which divided him from § 87(2)(b) and the officers addressing them. No officers addressed § 87(2)(b) and the footage did not show any officers addressing § 87(2)(b) or § 87(2)(b). After striking § 87(2)(b) with his baton, Sgt Egan walked toward a white fence that § 87(2)(b) and § 87(2)(b) were near, which appeared to be at least ten feet from § 87(2)(b). There were no other officers in the immediate vicinity.

Upon walking toward § 87(2)(b) Sgt Egan extended his left arm and hand, in which he was holding his baton, and swung his left arm back. The camera view depicting where Sgt. Egan's baton landed is obstructed (Board Review 66 – 0:23 – 0:27). § 87(2)(b) then appeared from the area in which Sgt Egan swung his arm. She was hunched over, and then ran away from Sgt Egan. She then lifted her phone up again (0:27). § 87(2)(b) stood next to § 87(2)(b) holding his phone upright toward Sgt Egan. Sgt Egan then swung his baton in front of § 87(2)(b) but it was unclear where his baton landed or whether it made contact with § 87(2)(b) as the camera was obstructed (Board Review 66 – 0:28). During this time, unknown individuals were heard stating, “Women too?! What! The cell phone?!” and, “They're knocking out your phone... That's women they hit.”

Sgt Egan then walked back toward where the other officers, § 87(2)(b) and § 87(2)(b) were, and did not address § 87(2)(b) or § 87(2)(b) further. § 87(2)(b) in the yellow shirt, remained behind the table, holding his phone in his left hand (Board Review 66 – 0:28). While walking back toward the railing, Sgt Egan quickly swung his baton toward § 87(2)(b)'s left hand. § 87(2)(b)'s body obstructed the view of where Sgt Egan's baton landed, but § 87(2)(b)'s phone quickly flew out of his hand, appearing to hit the

table, and then falling to the ground (Board Review 66 – 0:32 – 0:37). An impact is heard. § 87(2)(b) did not appear to have noticed Sgt Egan prior to this, and Sgt Egan did not make any statements to § 87(2)(b) prior. Sgt Egan walked away and did not address § 87(2)(b) in any other way. The footage did not depict any other officers addressing § 87(2)(b) or § 87(2)(b) at any point.



Sgt Egan baton strikes.mp4

Sgt Egan stated that when not addressing § 87(2)(b) he conducted crowd control, asking civilians to step back and at some points, holding his baton horizontally while pushing his arms forward to create space. He did this toward civilians who were close to officers. Those individuals complied, and so Sgt Egan made his way back toward where most of the officers were. Sgt Egan stated that people were permitted to film as long as they stayed at least an arm's length from the officers. He did not recall seeing anyone filming that did not maintain this distance, or who posed any issue by filming. Sgt Egan did not recall striking anyone with his baton except for possibly § 87(2)(b). He denied attempting to interfere with any recording device, including by striking anyone's phone or hand with his baton. He did not observe any damage to anyone's cell phones. Sgt Egan did not recall anyone other than § 87(2)(b) doing anything remarkable.

Upon reviewing the footage, Sgt Egan confirmed that he was the officer to approach § 87(2)(b) and § 87(2)(b). He could not recall the circumstances depicted in the footage, did not remember § 87(2)(b) or § 87(2)(b) and did not remember their roles in the incident. Sgt Egan stated that the footage showed him walking toward the exit, and that that was "pretty much it." He maintained that he did not use his baton in an attempt to prevent anyone from recording or using a cell phone.

All other interviewed officers stated that they did not recognize § 87(2)(b) or § 87(2)(b) when presented with their photos and the video footage. They did not recall the aforementioned civilians doing anything remarkable during the incident, and did not recall anyone who posed any issue by filming the incident. All of the officers either denied or did not recall seeing Sgt Egan strike any person or their phones with his baton, and they denied or did not recall observing what occurred in the video footage.

Officers may use force when it is reasonable to place a person into custody, ensure the safety of a member of service or a third person, or to enforce compliance. When reasonable, officers should first attempt to gain voluntary compliance by using de-escalation techniques. NYPD Patrol Guide, section 221-01 (Board Review 53). Civilians are permitted to observe, take photos, or videotape police incidents unless the safety of officers or other persons is directly endangered, or officers have probable cause to believe the observer is obstructing governmental administration. NYPD Patrol Guide, section 208-03 (10) (Board Review 55).

§ 87(2)(g)

The civilian and officer statements, as well as the video footage, indicate that § 87(2)(b) and § 87(2)(b) did not offer any incompliance, interfere with any arrest, or pose a safety threat to any civilian or member of service. While the footage showed § 87(2)(b) and § 87(2)(b) standing near § 87(2)(b) before he was apprehended, they quickly moved away from him, and § 87(2)(b) maintained his distance throughout the interaction. Though § 87(2)(b) acknowledged that Sgt Egan instructed her to move back, the civilians denied that officers made any other statements or addressed them in any way, as was supported by the video footage. None of the interviewed officers, including Sgt Egan, recalled § 87(2)(b) or § 87(2)(b) interfering or doing anything remarkable, and

the officers had no recollection of them posing any issues by filming the incident. The footage further showed that neither Sgt Egan nor any other officer attempted to restrain or arrest § 87(2)(b) or § 87(2)(b) prior to or after striking them with his baton.


§ 87(2)(g)


It is undisputed that after striking § 87(2)(b) with his baton, Sgt Egan approached § 87(2)(b) and § 87(2)(b) all of whom were conspicuously holding their phones, and struck them with his baton. With the exception of the alleged strike to § 87(2)(b)'s stomach, the civilians alleged that Sgt Egan swung his baton specifically at § 87(2)(b) and § 87(2)(b) phones, or at the hand in which they were holding their phones, causing their phones to fall to the ground. § 87(2)(b) stated that she picked up her phone from the ground and continued filming, and the footage showed her bending over before continuing to film. The footage also showed § 87(2)(b) phone fall to the ground immediately after Sgt Egan swung his baton toward his hands.

§ 87(2)(g)

**Allegation O – Abuse of Authority: Sergeant Anthony Egan damaged § 87(2)(b) property.**

§ 87(2)(b) statements to IAB and the CCRB were generally consistent (Board Review 04; 25; 31; 45). He stated that as he was filming the incident on his cell phone via Facebook Live, Sgt Egan struck his left hand and cell phone with one strike using his baton, causing the screen of the phone to shatter, and causing the phone to fall to the ground. The Facebook Live video immediately stopped as a result of the damage. § 87(2)(b) subsequently put tape on the phone to hold the shattered glass, and he had to purchase a new phone.

 Sgt Egan baton strikes.mp4  
(0:32)

 Facebook Live video.mp4  
(phone recording from damaged phone)

§ 87(2)(b) stated that when Sgt Egan struck § 87(2)(b) phone, the phone shattered. § 87(2)(b) stated that Sgt Egan struck § 87(2)(b) phone, though he did not know if the phone was damaged. Though no other interviewed civilians saw Sgt Egan strike or damage § 87(2)(b) phone, § 87(2)(b) stated he later heard one man's phone was "smashed."

During his CCRB interview, § 87(2)(b) presented a video of his iPhone that he had recorded after the incident, showing that the entire front screen was shattered and held together by tape, and the phone was slightly bent. He could be heard stating, "It's by Officer Egan of the 67<sup>th</sup> Precinct." § 87(2)(b) was unable to provide that video or his Facebook Live video to the CCRB. IAB recorded a video of § 87(2)(b) Facebook Live video, which they provided to the CCRB (Board Review 62; 68). The footage had no audio, but showed that the camera was facing a table. The footage then abruptly ended. Additional footage from IAB, taken by an unknown individual, showed that as § 87(2)(b) was holding his phone in his left hand with the camera facing a table and the screen facing upward, Sgt Egan lifted his baton to his shoulder and quickly swung it downward



toward the phone (Board Review 61; 66). The phone quickly fell out of § 87(2)(b) hand toward the table and then to the ground, and an impact was heard. When § 87(2)(b) picked up the phone, half of the screen was still lit, but it was unclear if or how the phone was damaged.

As previously addressed, Sgt Egan denied attempting to interfere with any recording device, including by striking anyone's phone or hand with his baton. He denied observing damage to anyone's cell phones. The other interviewed officers either denied or did not recall seeing Sgt Egan strike any person or their phones with his baton, and they denied or did not recall observing damage to anyone's phone.

§ 87(2)(g)  
§ 87(2)(b) Although the officers denied observing the alleged property damage, § 87(2)(b) asserted that Sgt Egan shattered the phone, and the various videos credited § 87(2)(b). One video showed Sgt Egan swinging his baton downward toward the front screen of § 87(2)(b) phone, and the video indicated that Sgt Egan swung his baton forcefully, as the phone quickly flew out of § 87(2)(b) hand and an impact was heard. Another video showed § 87(2)(b) Facebook Live video abruptly ending, further indicating that the phone was damaged, and § 87(2)(b) presented additional footage showing significant damage to an iPhone.

§ 87(2)(g)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

**Allegation P – Force: An officer used physical force against § 87(2)(b)**

**Allegation Q – Abuse of Authority: An officer damaged § 87(2)(b)'s property.**

§ 87(2)(b) stated that he was led out of the backyard by approximately seven or eight officers, and walked compliantly with them. While walking down the driveway, an officer forcefully pushed him against § 87(2)(b)'s van, causing his right shoulder to hit the van, causing a large dent in the van, and causing § 87(2)(b) to bend over or fall to the ground. § 87(2)(b) was not in handcuffs at the time, as the officers were unable to handcuff him due to his arm injuries. In both his sworn CCRB statement and his statement to IAB, § 87(2)(b) initially stated he did not know which officer pushed him, but later stated that Sgt Egan did so.

§ 87(2)(b) stated that once § 87(2)(b) was in handcuffs, officers walked him out of the backyard. § 87(2)(b) tried to compliantly walk with them but was limping due to his Sciatica. Sgt Egan pushed § 87(2)(b) against the van, causing a dent in the van. § 87(2)(b) denied that § 87(2)(b) had been resisting or fighting in any way, and stated that the officers had control of his hands. In his phone statement, § 87(2)(b) stated that Sgt Egan slammed § 87(2)(b) against a van.

§ 87(2)(b) and § 87(2)(b) stated that an officer or officers slammed § 87(2)(b) against the van, causing a dent in the van, but they could not tell which officer(s) did so. § 87(2)(b) stated that the force appeared to be unprompted. § 87(2)(b) did not see the push firsthand but instead via video footage. During § 87(2)(b)'s interview, which took place at her and § 87(2)(b)'s home, the investigator took photos of a dent to § 87(2)(b)'s van. While § 87(2)(b) and § 87(2)(b) stated they had video footage documenting the push, they refused to provide the footage to both IAB and the CCRB.

Neither § 87(2)(b) nor § 87(2)(b) saw the alleged force.

Sgt Egan did not recall escorting anyone out of the backyard and did not recall there being a vehicle in the driveway. He did not recall putting or pushing anyone against a van or seeing another officer do so, and he did not observe any damage to the van.

Inspector Gulotta stated that he observed a male, identified as § 87(2)(b) seated or laying in the driveway. He did not see how § 87(2)(b) ended up on the ground or what happened prior, and he could not recall which officers were with § 87(2)(b) at the time. Though he vaguely recalled a vehicle being in the driveway, he was unsure if he saw officers push anyone against the vehicle, did not recall doing so himself, and denied observing any damage to the vehicle. Inspector Gulotta did not know § 87(2)(b)'s medical status, but he believed he requested medical attention or instructed other officers to do so because the officers appeared to be struggling to bring § 87(2)(b) down the driveway, and because he "wanted to make sure he § 87(2)(b) was okay."

All other interviewed officers denied or did not recall bringing § 87(2)(b) out of the driveway, and were unable to specify who did so. They denied or did not recall any officer pushing § 87(2)(b) against a van. Though some officers recounted a vehicle being in the driveway, none recounted observing damage to the vehicle.

No video footage obtained by the CCRB showed the alleged force or showed officers bringing § 87(2)(b) down the driveway. In one video provided by IAB, taken by an unknown individual, an unknown female walked by the van and stated, "Look they dent up the van," (Board Review 69). Due to the quality of the video, the video did not clearly show any damage to the van.

§ 87(2)(g)

**Allegation R – Force: Sergeant Egan used physical force against § 87(2)(b)**

**Allegation S – Force: Sergeant Egan struck § 87(2)(b) with a baton.**

An APU Prosecutor was consulted in regard to this allegation.

In his sworn statement, § 87(2)(b) stated that after being pushed against the van, Sgt Egan repeatedly punched the left side of his face, above his eye and near his ear, with a closed fist (Board Review 29). Sgt Egan then struck his head with a hard object, but § 87(2)(b) could not see what the object was. Officers surrounded him as if to prevent others from seeing what was occurring. He was then taken to the front of the house, at which point officers tried to handcuff him. Due to three prior surgeries on his arm, § 87(2)(b) had difficulty putting his hand behind his back, which he told the officers. Bystanders had previously told officers that § 87(2)(b) was disabled. They nevertheless handcuffed him.

§ 87(2)(b) sustained bruises on the left side of his forehead and above his left eye as a result. Though he later went to a doctor, § 87(2)(b) refused to release his medical records to the CCRB.

In his statement to IAB, § 87(2)(b) did not mention being punched, but stated that while by the van, he received "several lashes" on his head, and that a sergeant struck his head with a baton (Board Review 46). He stated that he had a bump on his head as a result. An IAB officer conducting the interview stated that he could see and feel the bump. In both his IAB and CCRB statement, § 87(2)(b) stated he later saw Sgt Egan at the stationhouse and asked him why he had beaten him.

In his statements to IAB and the CCRB, § 87(2)(b) stated that after § 87(2)(b) was pushed against the van, two officers held him against the van while Sgt Egan punched the top of his head approximately five or six times. § 87(2)(b) had not been resisting and was in handcuffs at the time. He sustained bruises and swelling to his head as a result. During his CCRB interview, § 87(2)(b) presented a brief clip of video footage from his house's surveillance camera. The footage showed a large male, who § 87(2)(b) identified as § 87(2)(b) near a van. It showed an officer punch the male's head multiple times while other officers stood around him. The male did not appear to be resisting. While showing the footage, § 87(2)(b) commented, "That's Egan right there... See, my father's hands are behind his back." § 87(2)(b) did not allow the investigator to view the rest of the footage or view it more than once, and he

refused to provide the footage to the CCRB. In a follow-up phone call, § 87(2)(b) stated he only saw the alleged force in the footage, rather than first hand. He did not see an officer strike § 87(2)(b) with a baton.

§ 87(2)(b) did not witness Sgt Egan punch § 87(2)(b) by the van first hand, but reviewed the above-referenced footage, and stated that it showed that none of the surrounding officers intervened or got involved when Sgt Egan punched him. She stated that § 87(2)(b) sustained multiple bruises.

§ 87(2)(b) and § 87(2)(b) all stated that when officers attempted to handcuff § 87(2)(b) while in the backyard, § 87(2)(b) and bystanders told the officers that § 87(2)(b) was elderly, disabled, and had just had arm surgery. § 87(2)(b) believed the officers eventually acknowledged these statements. § 87(2)(b) and § 87(2)(b) denied or did not allege that they witnessed Sgt Egan punch § 87(2)(b) or strike him with a baton while by the van, and § 87(2)(b) stated he did not see anything that occurred after being handcuffed and taken out of the backyard. § 87(2)(b) stated however, that he saw § 87(2)(b) compliantly walk with officers out of the backyard. After being pushed against the van, § 87(2)(b) continued walking but was limping.

Upon reviewing § 87(2)(b)'s photo, Sgt Egan stated he could not recall § 87(2)(b)'s role in the incident. He did not recall any civilians other than § 87(2)(b) doing anything remarkable or being particularly combative or resistant. He did not see anyone who appeared to be physically disabled, and did not recall hearing anyone express a physical disability. Sgt Egan did not recall escorting any civilian out of the backyard, but believed that one arrestee was walking out of the backyard around the same time as he. He could not recall any details about this individual or whether the individual was in any way resistant, and he did not know whether any struggle took place in the driveway. Sgt Egan did not recall punching or using force against anyone other than § 87(2)(b). Sgt Egan returned to the stationhouse after the incident. He did not observe injuries on any of the arrested individuals.

Inspector Gulotta could not recall whether he observed officers use any type of force other than pushing. He observed a male, identified as § 87(2)(b) seated or laying in the driveway, and believed officers were struggling to lift him up. Inspector Gulotta did not see the circumstances resulting in § 87(2)(b) being on the ground. Though Inspector Gulotta stated he did not know § 87(2)(b)'s medical status, Inspector Gulotta requested medical attention because the officers appeared to be struggling to bring § 87(2)(b) down the driveway, and because he “wanted to make sure he § 87(2)(b) was okay.” He believed that officers eventually put two sets of handcuffs on § 87(2)(b) possibly due to his large stature.

Captain Doesberg stated that while in the backyard, he observed officers attempting to handcuff an elderly male, identified as § 87(2)(b) who had a cuff on one hand. Captain Doesberg stated that the officers would have had significant trouble handcuffing § 87(2)(b) with one set of cuffs due to his size. When Captain Doesberg approached § 87(2)(b) he saw that § 87(2)(b) was not giving up his other hand and repeatedly screamed that he could not feel his hand. Numerous bystanders were screaming, and they appeared to be concerned about § 87(2)(b)'s wellbeing and the handcuff. Captain Doesberg saw that the cuff already on § 87(2)(b) was clearly cutting off his circulation, as § 87(2)(b)'s wrists were “huge” and the cuff had been placed on him incorrectly. Captain Doesberg immediately took the cuff off and directed an officer to walk him out. He did not see § 87(2)(b) being led out of the backyard or down the driveway, and did not know if Sgt Egan assisted in escorting him out. He did not see anyone punch § 87(2)(b) or strike him with any object.

All other interviewed officers denied or did not recall bringing § 87(2)(b) out of the driveway, and were unable to specify who did so. They denied or did not recall seeing an officer punch § 87(2)(b) or strike him with a baton while in the driveway.

Video footage showed that while § 87(2)(b) was still in the backyard, he pulled his arms away from officers while repeatedly telling them, “My hand is not good,” (Board Review 60; 67). Another individual was heard yelling, “He has a bad foot!” Captain Doesberg then told § 87(2)(b) “We’re taking it off... Walk with me.” § 87(2)(b) was led out of the backyard, but the footage does not show by whom. Captain Doesberg remained in the backyard. The footage showed that many civilians and officers were crowded by the entrance to the backyard, in front of the driveway, and they all slowly walked out. No footage obtained by the CCRB captured the van or driveway.

§ 87(2)(b) and the other arrested individuals’ arrest reports stated that no force was used against them (Board Review 09; 07; 08; 10). No police documents were prepared noting any injury to § 87(2)(b) or any force used against him.

Officers may use force when it is reasonable to place a person into custody, ensure the safety of a member of service (MOS) or a third person, or to enforce compliance. Some factors to consider in determining when to use force are the actions taken by the subject, the number MOS in comparison to the number of subjects, and the age, and condition of the subject in comparison to MOS. NYPD Patrol Guide, section 221-01 (Board Review 53).

The evidence credited § 87(2)(b) and § 87(2)(b)’s assertion that while in the driveway by the van, Sgt Egan punched § 87(2)(b)’s head multiple times, causing § 87(2)(b) to sustain bruises and a bump to his head. Sgt Egan could neither confirm nor deny whether he was with § 87(2)(b) in the driveway or whether he used any force against § 87(2)(b) but he recounted seeing an arrestee in the driveway. Although most of the officers and civilian witnesses denied or did not recall observing the alleged force, it is reasonable that they were unable to see the altercation, as the civilians stated § 87(2)(b) was surrounded by multiple officers in the driveway, and the footage showed a crowd of officers blocking view of the driveway.

While the witnesses did not see all of what occurred in the driveway, multiple civilians did see an officer(s) push § 87(2)(b) in the driveway, and Inspector Gulotta recounted seeing § 87(2)(b) on the ground in the driveway. Though he was unable to articulate whether he observed any injury on § 87(2)(b) Inspector Gulotta’s statements suggest he believed § 87(2)(b) was injured, as he stated he requested EMS upon seeing § 87(2)(b) in the driveway. Additionally, an IAB officer acknowledged observing a bump on § 87(2)(b)’s head, which § 87(2)(b) attributed to the alleged force. Moreover, footage presented during § 87(2)(b)’s interview showed an officer repeatedly punching a large male by a van. § 87(2)(g)

It is undisputed that officers were repeatedly informed that § 87(2)(b) was physically disabled, as all interviewed civilians stated § 87(2)(b) and bystanders stated they informed officers of this, the video footage showed him and others expressing this, and Captain Doesberg acknowledged hearing them express this. While § 87(2)(b) offered some resistance while in the backyard by pulling his hands away from the officers, he, the witnesses, and Captain Doesberg stated § 87(2)(b) did so because of his disability, expressing his hand is injured. Neither the officers nor civilians stated that § 87(2)(b) resisted in any other way, and the video footage did not show him doing so.

§ 87(2)(g)

§ 87(2)(b) stated that while by the van, Sgt Egan also struck his head with a baton. No other civilians or officers stated they saw Sgt Egan do so, and Sgt Egan did not recall doing so. No footage



documenting the alleged baton strike was provided or shown to the CCRB. § 87(2)(g)

§ 87(2)(b)

**Allegation T – Abuse of Authority: Police Officer William Pugliese interfered with individuals’ use of recording devices.**

It is undisputed that toward the end of the incident, as officers were leaving the location, PO Pugliese pointed his flashlight towards civilians’ hands as some civilians were recording the incident.

§ 87(2)(b) stated that PO Pugliese pointed his flashlight toward § 87(2)(b)’s phone while he was recording a video, which § 87(2)(b) believed was an attempt to prevent the recording of PO Pugliese’s face. § 87(2)(b) did not allege that PO Pugliese made any statements to him or other civilians.

Two videos provided by IAB, one taken by § 87(2)(b) and one by an unknown individual, show a crowd of civilians standing in front of officers as officers are leaving the location (Board Review 63; 66; 67). Numerous civilians are filming, and some are standing within a few feet from PO Pugliese and PO Jimenez. At one point, PO Pugliese asks § 87(2)(b) to back up “a little,” but he does not address him further. The footage shows PO Pugliese and PO Jimenez using their flashlights, intermittently pointing them toward the civilians. They are not heard making any statements to civilians.

PO Pugliese stated that while standing in front of a crowd of civilians, approximately 25 of whom were filming, he used his flashlight to watch the civilians’ hands for weapons (Board Review 43). He did not recall the civilians interfering in any way, and he denied intentionally pointing his flashlight into the civilians’ cameras or attempting to interfere with their recording devices. He would not have been able to see their hands clearly without using his flashlight. PO Pugliese told some civilians to stay back, but he did not issue any other commands.

PO Jimenez could not recall if civilians were filming or recording the incident, but stated that he kept an eye on the crowd of civilians and used his flashlight to look at their hands (Board Review 49). He did so to see if they had anything in their hands that they could throw such as bottles, as he had seen beer bottles on the ground.

§ 87(2)(g)

§ 87(2)(b)

**Allegation U – Abuse of Authority: Inspector Joseph Gulotta refused to provide his name to § 87(2)(b)**

**Allegation V – Abuse of Authority: Captain John Doesberg refused to provide his name to § 87(2)(b)**

**Allegation W – Abuse of Authority: Sergeant Anthony Egan refused to provide his name and shield to § 87(2)(b)**

§ 87(2)(b) stated that at some point during the incident, she asked Inspector Gulotta and Captain Doesberg for their names and shield numbers (Board Review 28). As Sgt Egan was approximately two to three feet from § 87(2)(b), § 87(2)(b) asked him for his name and shield number at least five times, as did other people. § 87(2)(b) believed the officers heard her requests, and she recounted

Captain Doesberg making a “funny remark,” though she could not recall his exact statement. Sgt Egan made no acknowledgement of hearing her request, and none of the officers’ provided their information to her.

§ 87(2)(b) and § 87(2)(b) stated that multiple civilians asked officers for their names and shield numbers, but they were unable to specify who made these requests, to whom the requests were made, or whether the officers provided their information. No other civilians stated they heard § 87(2)(b) request any officers’ names or shield numbers.

Captain Doesberg and Inspector Gulotta did not recall anyone other than § 87(2)(b) requesting their or other officers’ names or shield numbers (Board Review 41; 42). Inspector Gulotta added that the incident was chaotic, and listening for name and shield requests was not his main concern. Sgt Egan could not recall if any civilian asked him for his name or shield number, and the officers could not recall if they provided their information to anyone. All other interviewed officers either denied or did not recall hearing civilians request officers’ names or shield numbers.

None of the video footage obtained by the investigation captured § 87(2)(b) requesting officers’ names or shield numbers.

Officers are to clearly state their name and shield number, or otherwise provide such information to anyone who requests it. NYPD Patrol Guide, section 203-09 (Board Review 54).

§ 87(2)(g)

**Allegation X – Abuse of Authority: An officer threatened to arrest § 87(2)(b)**

§ 87(2)(b) stated that she saw officers taking § 87(2)(b) who was arrested, out of the yard and across the street. § 87(2)(b) tried to follow, at which point one of the officers told her to back up, and stated that if she crossed the street she would be arrested. § 87(2)(b) compliantly backed away. No other interviewed civilians acknowledged hearing an officer threaten to arrest § 87(2)(b).

All interviewed officers denied or did not recall threatening to arrest any female, and they could not recall who escorted § 87(2)(b) across the street.

None of the video footage obtained by the investigation captured this portion of the incident.

§ 87(2)(g)

**Allegation Y – Offensive Language: An officer made remarks to § 87(2)(b) based upon race.**

§ 87(2)(b) the owner of the house, stated that at some point during the incident, a female officer commented, “A black man owns this house in this neighborhood?” § 87(2)(b) took offense to this, as he had worked hard to build his house. He thought that perhaps the officer thought a young black male could only afford his house by being involved in drugs.

No other civilians heard the alleged statement firsthand, but § 87(2)(b) was later informed that on a prior occasion, an officer had asked, “How is this house owned by a black guy in this community?”

All interviewed officers denied making the alleged statement or hearing another officer do so, and the alleged statement was not captured in any footage obtained by the CCRB.

§ 87(2)(g)

**Allegation Z – Abuse of Authority: Inspector Joseph Gulotta refused to provide his name and shield number to § 87(2)(b)**

§ 87(2)(b) stated that he approached Inspector Gulotta while Inspector Gulotta was seated in his RMP (Board Review 20). § 87(2)(b) asked Inspector Gulotta for his name and badge number. Inspector Gulotta looked away and did not respond to § 87(2)(b)'s request.

Inspector Gulotta stated that once all of the arrests were made, the officers tried to get everyone out of the location as quickly as possible to avoid exacerbating the situation (Board Review 42). Inspector Gulotta stated that the scene “never calmed down,” but also stated that by the time he got back into his RMP, things had finally gotten under control. While Inspector Gulotta was in his RMP preparing to leave, a civilian, identified as § 87(2)(b) ran to Inspector Gulotta’s window yelling, “I need your name and shield number!” Inspector Gulotta was not sure if he had interacted with § 87(2)(b) before this point.

Inspector Gulotta felt that it was best to leave rather than engage in any further interaction with any civilians. He felt that if he exited his vehicle to speak with a yelling civilian, the situation could again escalate. Inspector Gulotta therefore did not provide his name to § 87(2)(b) and instead instructed his partner to drive away. When asked if there was anything preventing him from simply rolling down the window to provide his name to § 87(2)(b) Inspector Gulotta replied that it was a safety issue and he did not want to “inflare” the situation any further.

Video footage taken by § 87(2)(b) showed § 87(2)(b) approach Inspector Gulotta, who was seated in an RMP, and state, § 87(2)(b) Chief, I need your badge number” (Board Review 64; 67). Inspector Gulotta’s window was closed. § 87(2)(b) again stated, “I need your badge number sir.” Inspector Gulotta did not respond, and the RMP drove away. § 87(2)(b) then approached Captain Doesberg’s RMP and requested his shield number, at which point Captain Doesberg stated, “I’m Captain Doesberg,” and pulled his shield forward.



Shield request.mp4

Officers are to clearly state their name and shield number, or otherwise provide such information to anyone who requests it. NYPD Patrol Guide, section 203-09 (Board Review 54).

It is undisputed that § 87(2)(b) requested Inspector Gulotta’s shield number, that Inspector Gulotta heard the request, and that Inspector Gulotta refused to respond in any way. § 87(2)(g)

**Allegation 2A – Abuse of Authority: Police Officer Aurel Hoxha did not obtain medical treatment for**

§ 87(2)(b)

§ 87(2)(b) stated that while at the 67<sup>th</sup> Precinct Stationhouse, he told an officer, identified via the investigation as PO Hoxha, that he wanted to go to the hospital because his head hurt. He asked other officers for medical attention as well, but he was unable to describe the other officers he asked. Although § 87(2)(b) head wound was treated at the stationhouse, § 87(2)(b) was not seen or treated by EMS.

§ 87(2)(b) denied hearing § 87(2)(b) request medical attention at any point, but he recounted § 87(2)(b) stating that his body hurt and asking officers why they used force against him while at the stationhouse. The officers did not respond.

Neither § 87(2)(b) nor § 87(2)(b) provided sworn statements to the CCRB. They did not mention § 87(2)(b) requesting medical attention in their other statements. No other individuals were arrested.

PO Hoxha confirmed that he brought the arrestees to the stationhouse, but he denied observing injuries on any of them (Board Review 50). He did not hear anyone complain of injuries, request medical attention, or ask to go to the hospital at any point. He did not refuse to obtain medical treatment for anyone.

Sgt Egan and Sgt Scally returned to the stationhouse directly after the incident, and Captain Doesberg returned sometime after. The officers denied interacting with any of the arrested individuals at the stationhouse, and denied hearing any of them request medical attention. Sgt Egan believed that EMS responded to the stationhouse and spoke with all of the arrestees, and that they all refused medical attention. Captain Doesberg believed that § 87(2)(b) received medical attention.

Inspector Gulotta believed he requested EMS for § 87(2)(b) while still on § 87(2)(b), but he did not specifically hear anyone request medical attention, and was not sure if EMS responded. Inspector Gulotta responded to another incident after leaving § 87(2)(b) and could not recall if he saw any of the arrestees later. All other interviewed officers denied returning to the stationhouse directly from the incident and denied seeing the arrested individuals at the stationhouse. They did not hear any civilian request medical attention.

While a Medical Treatment of Prisoner Report (MTPR) was prepared for § 87(2)(b) there were no records of an MTPR having been prepared for § 87(2)(b) (Board Review 72). The “physical condition” portion of § 87(2)(b) s arrest report was left blank (Board Review 09). The “Medical Attn. Requested?” portion of the command log was left blank for each arrested individual (Board Review 73).

§ 87(2)(g)

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

**Allegation 2C - Other Misconduct: There is evidence suggesting Sergeant Anthony Egan provided a false official statement in violation of PG 203-08, which the CCRB referred to IAB on January 13, 2017, generating log number 17-1767.**

An APU Prosecutor was consulted regarding Sgt. Egan's false official statement to the CCRB pertaining to the force he used during this incident. The CCRB recommends that the NYPD conduct further investigation as there is evidence to suggest that Sgt Egan provided a false official statement. The evidence is as follows:

Sgt Egan was interviewed at the CCRB on January 10, 2017 (Board Review 79). When asked if he used his baton to hit anyone's hand or cell phone to prevent them from recording, or for any other reason, Sgt Egan stated that he did not do so. Sgt Egan identified himself in video footage as the officer to approach § 87(2)(b) and swing his baton toward § 87(2)(b) phone. After reviewing the footage, Sgt Egan maintained that he did not, and did not believe the video to show, him inadvertently or willingly striking the civilians with his baton or knocking anyone's phones out of their hands.

An officer is prohibited from making a false official statement, and when found having made such a statement, may be subject to disciplinary action. NYPD Patrol Guide, section 203-08 (Board Review 55).

§ 87(2)(b) provided a sworn statement to the CCRB, alleging that Sgt Egan used his baton to strike the phone from his hand, striking both his hand and the phone, and shattering the screen of the phone as a result. § 87(2)(b) and § 87(2)(b) confirmed in their sworn statements that Sgt Egan used his baton to strike the phone from § 87(2)(b) hand, and § 87(2)(b) stated that § 87(2)(b) phone was "shattered" as a result. Another witness, § 87(2)(b) provided an unsworn phone statement to the CCRB, alleging that Sgt Egan struck § 87(2)(b) with his baton.

§ 87(2)(b) provided video footage taken by an unknown individual to the CCRB. Approximately 33 seconds into the footage, Sgt Egan is seen approaching § 87(2)(b) who is wearing a yellow shirt, and quickly swinging his baton downward toward § 87(2)(b) phone (Board Review 61; 66). § 87(2)(b) phone immediately falls out of his hand.

§ 87(2)(g)

Squad: 07

Investigator:	_____	<u>Liliana Manuel</u>	_____
	Signature	Print	Date
Squad Leader:	_____	<u>Diana Townsend</u>	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

